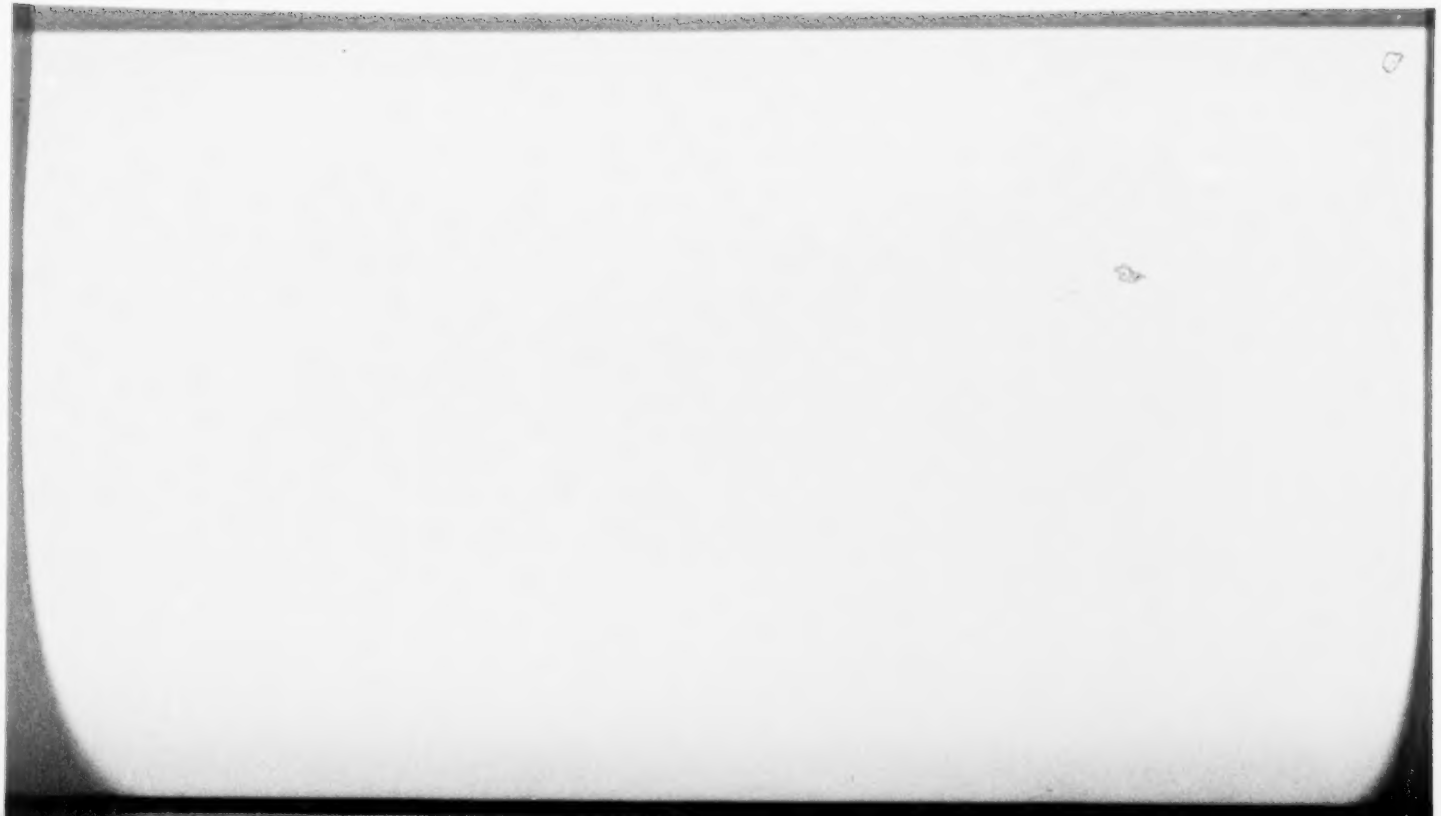

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No. 201.

Answer of D. C. to Motion to Show Cause.

Office Supreme Court U.S.
FILED
OCT 8 1900
JAMES H. McKENNEY,
Clerk

Filed Oct. 8, 1900.

Supreme Court of the United States.

OCTOBER TERM, A. D. 1900.

No. ~~220~~ 201

THOMAS F. FARRELL ET ALS., *Plaintiffs in Error,*
vs.
WEST CHICAGO PARK COMMISSIONERS, *Defendants in Error.*

Error to the Supreme Court of Illinois.

The several and corporate answer of West Chicago Park Commissioners, as a quasi-municipal corporation, and the joint and several answers of Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, who are officers of and members of the Board of West Chicago Park Commissioners, to the rule heretofore entered in said Court upon the West Chicago Park Commissioners to show cause why said defendants should not be punished for contempt as prayed in the petition of plaintiffs in error filed in this Court on the 11th day of May, A. D. 1900.

F. A. RIDDLE,
COUNSEL FOR RESPONDENTS.

BARNARD & MILLER PRINT, CHICAGO.

IN THE

Supreme Court of the United States,

OCTOBER TERM, A. D. 1900.

No. 525.

THOMAS F. FARRELL et als.,
Plaintiffs in Error,
vs.
WEST CHICAGO PARK COMMISSIONERS,
Defendants in Error.

Error to the Supreme Court of Illinois.

The several and corporate answer of West Chicago Park Commissioners, as a quasi-municipal corporation, and the joint and several answers of Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, who are officers of and members of the Board of West Chicago Park Commissioners, to the rule heretofore entered in said Court upon the West Chicago Park Commissioners to show cause why said defendants should not be punished for contempt as prayed in the petition of plaintiffs in error filed in this Court on the 11th day of May, A. D. 1900.

This respondent, West Chicago Park Commissioners, says it is a quasi-municipal corporation, duly organized by an act of the General Assembly of the State of Illinois, entitled "An act to amend the charter of the City of Chicago, to create a Board of Park Commissioners, and to authorize a tax in the Town of West Chicago, and for other purposes," approved and in force February 27, 1869 (see Private Laws of Illinois, 1869, Vol. 1, p. 342); that its jurisdiction is exercised wholly within the Town of West Chicago, in the City of Chicago, County of Cook, and State of Illinois, and is by virtue of said act of the General As-

sembly of Illinois, known under the name of the "West Chicago Park Commissioners"; that it has power under said act and other acts of the said General Assembly to levy and collect special assessments for park and boulevard purposes, and to maintain, govern, regulate and control certain parks and boulevards within the said Town of West Chicago.

And this respondent, West Chicago Park Commissioners, further answering the said rule to show cause, says that by virtue of its power and authority it caused to be levied a special assessment upon the lots, lands, pieces and parcels of real estate benefited or to be benefited by the improvement of Douglas boulevard, from the south line of Colorado avenue to the west line of Douglas Park, in said City of Chicago; that the proceedings to levy and collect said special assessment were begun and carried on by the West Chicago Park Commissioners in accordance with the provisions of an act of the General Assembly of the State of Illinois, approved June 24, 1895; that said proceedings were begun in the County Court of Cook County, Illinois, in which court as a result of the prosecution of said proceedings an order of confirmation was finally entered on or about June 10, A. D. 1898; that from said order of confirmation so entered in said County Court the plaintiffs in error in the above entitled cause, with others, appealed to the Supreme Court of Illinois; that said appeal was heard in the said Supreme Court and determined therein on October 13, 1899, when a final judgment was entered in said Supreme Court of Illinois affirming the order of confirmation of said special assessment, which had heretofore been entered in said County Court. (See *Farrell* v. *West Chicago Park Commissioners*, 182 Ill., 250.)

This respondent, West Chicago Park Commissioners, further answering, says, that on or about the 2d day of February, A. D. 1900, a citation in the words and figures following, to wit:

"UNITED STATES OF AMERICA—ss.

To the West Chicago Park Commissioners, GREETING:

You are hereby *Cited* and *Admonished* to be and appear at a Supreme Court of the United States, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the Supreme Court of the State of Illinois, wherein Thomas F. Farrell, John B. Scully, J. F. Reilly, M. H. Reilly, C. E. Greenfield, J. H. Brewster, John T. Milnamow, L. C. Stebbins, J. H. Londrigan, J. J. Carroll, James J. Casey, Thomas P. Casey, Mercy Hospital and Mercy Orphan Asylum, E. D. Raynor, David Henneberry, Elizabeth Twomey, Margaret McDonnell, Edward L. Casey, Margaret Casey, John Vaughn, J. McCalmont, E. J. McLaughlin, Sara E. Oberlander, A. C. Blettner, Edward J. McCarthy, Lottie Simon, Emily Stenberg, George H. Blettner, Lina D. Thompson, James L. Monaghan, Mary E. Bailey, James Connor, Ellis Roberts, Peter W. Reed, Sarah J. Lynch, A. R. Martin, Celia A. Neill, D. B. Waite, Thomas A. Davis, Mary La Lande, Frank I. Crane, Frank J. Novak, C. D. Gammon, Eliza Hennick, A. E. Gammon, Charles G. H. Meyer, John B. Kelter, M. Kelter, Rose Berwin, William L. Hoerber, John P. Coan, Henry Matthes, William Scott, John A. Mullen, F. W. E. Henkel, Carl Strueh, James C. Dooley, John G. Siessling, A. M. Maypole, Elizabeth B. Keller, Herman Paesler, G. A. Pudewa, Eugene O'Sullivan, F. W. Dorn, J. G. Sherman, W. A. Walter, Adelaide G. Walter, William Haase, Mina Slavik, Emma

A. Doyle, James Crighton, S. A. Scribner, Thomas D. Wayne, Mary O'Neill, Luke P. Colleran, C. S. Stover, William L. Brent, J. S. Lyons, John A. Wilson, D. M. Cunningham, J. W. Midgley, J. L. Hoerber, Jr., Charles J. Byrne, H. S. Josselyn, George W. Miles, M. A. Mahoney, Frank Zajicek, Edward J. Dryer, Joseph W. Bidwell and Michael Hannigan, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable James H. Cartwright, Chief Justice of the Supreme Court of the State of Illinois, this 24th day of January, in the year of our Lord one thousand nine hundred.

JAMES H. CARTWRIGHT,
Chief Justice Supreme Court of Illinois.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

Served this writ on the within named, The West Chicago Park Commissioners, by delivering a copy thereof to Ernest G. Schubert, secretary of said corporation, this 2d day of February, 1900; the president of said corporation not found in my county.

ERNEST J. MAGERSTADT, *Sheriff.*
By THOS J. MCNICHOLS, *Deputy.*"

was served upon this respondent, West Chicago Park Commissioners, in the manner shown by said citation hereinabove set forth.

This respondent, West Chicago Park Commissioners, further answering, says, that from and after the 2d day of February, A. D. 1900, and from and after the service of said citation, it has taken no action of any kind, name, nature or description respecting the writ of error sued out by the plaintiffs in error in the above entitled cause in this court, and has not at any time before or since the 2d day of February, 1900, made or caused to be made any return to the County Treasurer of Cook County, or to any other officer authorized to receive state and county taxes in Illinois on the lots and lands which had been assessed for benefits by reason of the improvement of said Douglas boulevard, and claimed to be owned by the plaintiffs in error whose names are mentioned in said citation.

This respondent, West Chicago Park Commissioners, further answering, said rule to show cause, says, that it is not true as stated in the petition filed by the plaintiffs in error herein for rule to show cause, etc., that this respondent returned or caused to be returned to the County Treasurer and ex-officio County Collector of Cook County, Illinois, the real estate belonging to plaintiffs in error as delinquent for the non-payment of said special assessment, and that the statement or averment in said petition of said plaintiffs in error that this respondent has ever at any time either before or since the date of the service of said citation made or caused to be made any return whatever to the County Treasurer and ex-officio County Collector of Cook County, Illinois, of the lots and lands, or any of them belonging to said plaintiffs in error, and which had been specially assessed by this respondent in the manner and for the purpose aforesaid, is wholly false and untrue.

This respondent, West Chicago Park Commissioners,

further answering said rule to show cause, says, that on the 2d day of February, A. D. 1900, when said citation was served upon this respondent as aforesaid, it had an officer known and recognized in the laws of the State of Illinois as a collector of special assessments; that said collector of special assessments had and now has authority, pursuant to the laws of Illinois, to do and perform all lawful duties and things necessary under and consistent with the laws of said state, to collect all special assessments lawfully levied by this respondent; that on the 2d day of February, A. D. 1900, and subsequently and until this time, the collector of special assessments was one John I. Straw, a citizen of lawful age, residing in the Town of West Chicago, and within the park district subject to the jurisdiction of this respondent; that said Straw had been collector of special assessments for this respondent for more than six months prior to the 2d day of February, A. D. 1900, and has since been and now is collector for all special assessments lawfully levied by this respondent.

And this respondent, further answering, says, that after the final judgment so entered in said Supreme Court of Illinois, on the 13th day of October, A. D. 1899, in the due course of practice, the usual order of affirmance reciting the decision and judgment of said Supreme Court of Illinois, in the case wherein the plaintiffs in error herein were therein appellants, and which cause in said Supreme Court of Illinois was entitled "*Farrell* v. *West Chicago Park Commissioners,*" was on the 13th day of November, 1899, filed in the said County Court of Cook County; and thereupon said John I. Straw, special collector as aforesaid, proceeded to collect said special assessment so levied by this respondent; that since the filing of said order of affirmance in the office of the clerk of said

County Court, this respondent, West Chicago Park Commissioners, has taken no action whatever of any kind, name, nature or description respecting the collection of said special assessment levied against any of the lots or lands of the plaintiffs in error, and has neither made or caused to be made any return of any of the lots which had been so specially assessed against the several lots and lands of the plaintiffs in error for the improvement of said Douglas boulevard, to the County Treasurer and ex-officio county collector upon the ground that such lots and lands were delinquent for the non-payment of the amounts so specially assessed against said lots, parcels and pieces of real estate.

And this respondent further answering said rule to show cause, says, that the subject-matter of a return of the lots and lands belonging to the plaintiffs in error which had been specially assessed as and for the purpose aforesaid by this respondent, to the County Treasurer and ex-officio County Collector of Cook County was never at any time or in any way before this respondent for action, and that this respondent never at any time took any action, or caused any action whatever to be taken respecting such returns.

And this respondent, further answering, says, that on or about the 12th day of April, A. D. 1900, it was served with the following demand and notice:

"In the Supreme Court of the United States.

Thomas F. Farrell *et al., Plaintiffs in Error,*
vs.
The West Chicago Park Commissioners, *Defendants in Error.*

Error to the Supreme Court of the State of Illinois.
To the West Chicago Park Commissioners:

You are hereby notified that unless you at once withdraw from collection a special assessment for the improvement of Douglas boulevard, from Garfield Park to Douglas Park, in the City of Chicago, in the County of Cook and State of Illinois, and cease all further efforts to collect the same, in so far as said special assessment relates to the property of the above named plaintiffs in error, proceedings will be commenced in said Supreme Court of the United States against you, and each of you, and a rule will be asked against each of you to show cause why each of you should not be punished for contempt in violating the writ in said cause, and the statute of the United States in such case made and provided.

Chicago, April 12, 1900.

Geo. W. Wilbur,
Attorney for Plaintiff in Error."

And this respondent, further answering, says, that the demand and notice above recited was the first information received or communicated to this defendant that the return of the lots and lands of the plaintiffs in error in this cause had been made to the County Treasurer and ex-officio Collector of Cook County as delinquent for the non-payment of said special assessment.

And this respondent further answering said rule to show cause, says, that it did not withdraw, and that it, at that time did not request the County Treasurer and ex-officio Collector of Cook County to withdraw from collection the special assessment for the improvement of Douglas boulevard as aforesaid, for the reason that this respondent was then advised by its counsel that the writ sued out by the plaintiffs in error in this court to the Supreme Court of the State of Illinois, did not operate as a supersedeas or suspend the right of the County Treasurer and ex-officio Collector of Cook County to proceed with the collection of said special assessment.

But this respondent, further answering said rule to show cause, says, that afterwards and after the rule to show cause had been entered in this court, it caused such steps to be taken as resulted in the withdrawal of all of the lots and lands of the plaintiffs in error which had been returned by said John I. Straw as such Collector of Special Assessments to said County Treasurer and ex-officio Collector as delinquent for the non-payment of said special assessment, from the application which had then been made for a judgment of sale of the lots of the plaintiffs in error. And this respondent joined with the said County Treasurer in withdrawing the lots and lands of plaintiffs in error from said application for judgment and sale, and joined with said County Treasurer in presenting to and having entered in said County Court of Cook County, on July 26, 1900, the following order:

"UNITED STATES OF AMERICA,
STATE OF ILLINOIS,
COUNTY OF COOK, } ss.

Pleas before the Honorable Orrin N. Carter, sole presiding judge of the County Court of Cook County, in the State of Illinois, at a regular term of said County Court of Cook County, begun and holden at the court house in the City of Chicago, in said county and state, on the second Monday, being the 9th day of July, in the year of our Lord one thousand nine hundred, and of the independence of the United States of America the one hundred and twenty-fifth.

Present—The Honorable Orrin N. Carter, Judge of the County Court of Cook County.

ERNEST G. MAGERSTADT,
Sheriff of Cook County.

Attest:
PHILIP KNOPF, *Clerk.*

Be it remembered that, heretofore, to wit: on the 26th day of July, in the year of our Lord one thousand nine hundred, the same being one of the days of the July term of the County Court of Cook County, the following, among other proceedings, were had and entered of record in said court, to wit:

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

IN THE COUNTY COURT OF COOK COUNTY.

In the matter of the application of S. B. Raymond, County Treasurer and ex-officio Collector of Cook County, Illinois, for judgment against certain delinquent lands, town lots and real property for the amount due and unpaid upon the same for a certain special assessment levied by the West Chicago Park Commissioners to pay the cost of improving Douglas boulevard from the southeasterly line of Garfield Park to the west line of Douglas Park, in the City of Chicago, County of Cook, and State of Illinois, said application for judgment being made by said County Treasurer at the July term, A. D. 1900, of said County Court.

And now comes the West Chicago Park Commissioners by Francis A. Riddle, its attorney, and Samuel B. Raymond, County Treasurer and ex-officio County Collector of Cook County, by Julius A. Johnson, his attorney, and show to the court that after the order was entered by the Supreme Court of Illinois on October 13, A. D. 1899, affirming the order heretofore entered in this court confirming said special assessment so levied by West Chicago Park Commissioners for the improvement of said Douglas boulevard from the southeasterly line of Garfield Park to the west line of Douglass Park as aforesaid, the several persons owning or interested in the following described lots, parcels and pieces of real estate specially assessed by said West Chicago Park Commissioners for benefits re-

sulting to each of such lots, parcels and pieces of real estate from said improvement of said Douglas boulevard as aforesaid, namely:

Lots 14, 15, 16, 17, 18, 20 and 21, in block 3, of Vance's subdivision of the east ½ of the north-west ¼, south of Colorado avenue (except the west 250 feet thereof), in section 14, township 39, range 13.

Lots 1, 2, 5, 6, 11 and 22, in the subdivision of the west ½ of the north ½ of the west ½ of the east ½ of the south-west ¼ section 14, township 39, range 13.

The north ½ of the north 6½ acres (except R. R. and except boulevard) of the south-west ¼ of the east ½ of the south-west ¼ of Sec. 14-39-13.

The South ½ of the north 6½ acres (ex. boulevard) of the south-west ¼ of the east ½ of the south-west ¼ of Sec. 14-39-13.

Lots 9, 10, 11, 12, 13, 14, 15, 17, 18, 37, 38, 39, 40, 41, 42, 43 and 44 of Edward Casey's Addition to Chicago, being a subdivision of the south 6 acres (ex. boulevard) of the south-west ¼ of the east ½ of the south-west ¼ Sec. 14-39-13.

Lots 5, 8, 9, 20, 21, 22, 23 and 24, in block 1, and lots 8, 12, 15, 16, 17, 18, 19 and 22, in block 2, and lot 22, in block 3, lots 18, 19, 20, 21, 22 and 23, in block 4 of Vance's and Philip's Boulevard Addition to Chicago, being a subdivision of the north-east ¼ of the north-west ¼ (except the north-east ¼ thereof) Sec. 23-39-13.

Sub-lots 19, 20, 21 and 27 of lot A in block 2 of Vance's Garfield Boulevard Addition, being a subdivision of parts of blocks 1 and 2, in Circuit Court partition of the west ½ of the south-west ¼ Sec. 14-39-13.

Sub-lots 44, 45, 46, 48, 49, 50 and 51, of lot 1, in block 3, of Garfield Boulevard Addition, in the west ½ of the south-west ¼, Sec. 14-39-14.

Sub-lots 42, 43 and 51, of lot 2, in block 3, of Cummings' Garfield Boulevard Addition, being a subdivision of lot 2, block 3, and lot 2 of block 4, in the Circuit Court partition of the west ½ of the south-west ¼, Sec. 14-39-13.

Lots 44, 45, 46, 47 and 48 in block 6 of L. E. Ingall's subdivision of that part south of W. C. R. R., and of blocks 5 and 6 of Circuit Court partition of west ½ of south-west ¼, Sec. 14-39-13.

Sub-lots 1 and 6, of lot 1, in block 7, of Garfield Boulevard Syndicate Addition to Chicago, being a subdivision of lot 1, block 7, of Circuit Court partition of west ½ of south-west ¼, Sec. 14-39-13.

Lots 25, 26, 27, 28, 29 and 30, in Block 5, lots 36, 39, 41, 42, 43 and 44 in block 6, of D. S. Goodwin's subdivision, in the north-west ¼ of the north-east ¼ of Sec. 23-39-13.

Lots 14, 15, 16, 17, 20, 22, 23 and 24, in block 3, and lots 14 and 15, the east ½ of 16, the west ½ of 16, 17, 18, 20, 21, 22, 23 and 24, in block 4, of Downing, Corning & Prentice's Douglas Park Addition, in the east ½ of the north-west ¼, Sec. 23-39-13.

Lot 4 of L. B. Dowd's subdivision of the west ½ of the south-east ¼ of the north-west ¼ (ex. N. 125 feet), Sec. 23-39-13.

Sub-lots 5 and 24 (ex. west 16 feet thereof), in the re-subdivision of lots 3, 4, 5, 20, 21 and 22 of block 1, in Grant's Addition to Chicago, in the south-west ¼ of the north-west ¼, Sec. 23-39-13.

Sub-lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, in block 3 of Keeler's subdivision of lots 3 to 22 and 152 feet of vacated alley south of Douglas boulevard, and part of lots 2 and 23, block 3, in Sec. 23-39-13.

Sub-lots 6, 7, 8, 9 and 10, in block 4, of Herman Paesler's re-subdivision of lots 3, 4, 5, 20, 21 and 22, and part of lots 2 and 23, in block 4, Sec. 23-39-13.

Lots 3, 4, 5, 6, 7, 10 and 11, in block 6, of Shaw, Karrigan and Solomon's subdivision of block 6, of the Circuit Court partition of the east $\frac{1}{2}$ of the north-east $\frac{1}{4}$, Sec. 23-39-13.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, in block 7, in Sherman & Walter's subdivision of block 7, Sec. 23-39-13.

The east 150 feet (ex. street) of block 1, Douglass Park Addition to Chicago, in the west $\frac{1}{2}$ of the north-west $\frac{1}{4}$ of Sec. 24-39-13.

Also the west 150 feet of the east 350 feet (ex. street) of block 1, Douglas Park Addition to Chicago, in west $\frac{1}{2}$ north-west $\frac{1}{4}$, Sec. 24-39-13.

Lots 42 and 43, in block 2, of Douglas Park Addition to Chicago, in west $\frac{1}{2}$ north-west $\frac{1}{4}$, Sec. 24-39-13.

Lots 18 and 19, in the subdivision of the west $\frac{1}{2}$ of the north $\frac{1}{2}$ of the west $\frac{1}{2}$ of the east $\frac{1}{2}$ of the south-west $\frac{1}{4}$, Sec. 14-39-13.

Lots 4, 5, 6, 7, 10, 11 and 20, in block 2, and lots 24 and 25, in block 4, of Vance & Philip's Boulevard Addition to Chicago, being a subdivision of the north-east $\frac{1}{4}$ of the north-west $\frac{1}{4}$ (ex. the north-east $\frac{1}{4}$ thereof) Sec. 23-39-13.

Sub-lot 4 of lot 2, in block 2, of Harshaw and Price's subdivision of lot 2, in block 2, in Circuit Court partition of the west $\frac{1}{2}$ of the south-west $\frac{1}{4}$, Sec. 14-39-13.

Sub-lots 1, 2, 3 and 4 of lot 1, in block 6, of W. J. and D. F. Anderson's subdivision of part of sub-block 1, of block 6, in the Circuit Court partition of the west ½ of the south-west ¼, Sec. 14-39-13.

Sub-lot 7 of lot 1, in block 7, of Garfield Boulevard Syndicate Addition to Chicago, being a subdivision of lot 1, block 7, of Circuit Court partition of west ½ of south-west ¼, Sec. 14-39-13.

Sub-lots 4 and 5, of lot 2, of block 7, of Feinberg & Loeffler's Douglas Boulevard Addition in the south-west ¼ of Sec. 14-39-13.

Sub-lots 21 and 22 of lot 2, in block 1, of Prescott's Douglas Boulevard Addition to Chicago, in Sec. 23-39-13.

Lot 2, in block 2, of the re-submission of lots 3, 4, 5, 20, 21 and 22, in Grant's Addition to Chicago, in the south-west ¼ of the north-east ¼, Sec. 23-39-13.

Sub-lots 1, 2, 3, 4 and 5, in block 4, in Herman Paesler's re-subdivision of lots 3, 4, 5, 20, 21 and 22, and part of 2 and 23, block 4, in Grant's Addition to Chicago, of the south-west ¼ of the north-east ¼ of Sec. 23-39-13.

Sub-lots 8 and 9 of Shaw, Karrigan & Solomon's subdivision of block 6, of the Circuit Court partition of the east ½ of the north-east ¼ of Sec. 23-39-13.

Also the west ½ of the north 2 acres of the north-east ¼ of the east ½ of the south-west ¼ of the north-west ¼, Sec. 23-39-13.

Sub-lots 5 and 6 of lot 1, block 6, in W. J. and D. F. Anderson's subdivision of a part of sub-block 1 of block 6, in Circuit Court partition of west ½ south-west ¼, Sec. 14-39-13.

Sub-lot 8 of lot 1, in block 7, in Garfield Boulevard

Syndicate Addition to Chicago, being a subdivision of lot 1, block 7, of Circuit Court Partition of west ½ of south-west ¼, Sec. 14-39-13.

Sub-lots 15, 16, 17 and 18, of lot 2, block 2, in Prescott's Douglas Park Addition to Chicago, in Sec. 23-39-13.

Lots 7, 8, 9 and 10 of L. B. Dowd's subdivision of the west ½ of the east ½ of the south-east ¼ of the north-west ¼ (ex. N. 125 feet), Sec. 23-39-13.

Lots 1 and 2, in block 6, in Shaw, Karrigan & Solomon's subdivision, in the Circuit Court partition of the east ½ of the north-east ¼ of Sec. 23-39-13.

Sub-lot 7 of lot 2, in block 5, of Prescott's Douglas Park Addition to Chicago, being a subdivision of blocks 1, 2, 5 and 10, in Circuit Court partition of the east ½ of the north-east ¼ and east ½ of the south-east ¼, Sec. 23-39-13, sued out a writ of error in the Supreme Court of the United States, and which writ of error now operates as a supersedeas against further proceedings to enforce the collection of said special assessment against said several lots, parcels and pieces of real estate, respectively.

Now, therefore, on motion of Francis A. Riddle, attorney for said West Chicago Park Commissioners, and Julius A. Johnson, attorney for said County Treasurer, it is therefore ordered that the said application for judgment against each and every of the lots, parcels and pieces of real estate hereinabove described, be withdrawn, and that the judgment sale and redemption record be kept in the office of said County Treasurer for that purpose for the year 1900, in which said several lots, parcels and pieces of real estate were listed and entered, be marked on the margin thereof, opposite the entry of the respective de-

scriptions of said lots, parcels and pieces of real estate, as follows:

"Withdrawn from application for judgment, but without prejudice to the right of the said County Treasurer to again apply for judgment, and without prejudice also to the right of West Chicago Park Commissioners to return said several lots, parcels and pieces of real estate delinquent for the non-payment of said special assessment, and without prejudice to the right of said Park Commissioners to direct said County Treasurer to apply for judgment against said several lots, parcels and pieces of real estate at any time after the writ of error so sued out and now pending in the Supreme Court of the United States shall have been finally determined by said Supreme Court."

"STATE OF ILLINOIS, } ss.
COOK COUNTY. }

I, Philip Knopf, Clerk of the County Court of Cook County, and the keeper of the records and files thereof, in the state aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of a certain order entered of record July 26, A. D. 1900, in a certain cause in said court, in the matter of the application of Samuel B. Raymond, County Treasurer, and ex-officio County Collector for judgment on delinquent special assessment levied by West Chicago Park Commissioners for improvement of Douglas boulevard, etc., etc., etc.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Chicago, in said county, this 14th day of September, 1900.

[SEAL.] PHILIP KNOPF, *Clerk*."

And this respondent further answering said rule to show cause, says, that after the entry of the order above set forth, and after the 26th day of July, A. D. 1900, neither the County Treasurer of Cook County nor this respondent has taken any steps, either directly or indirectly, to enforce the payment of said special assessment so levied as aforesaid, against any of the lots and lands of the plaintiffs in error herein, and that no application for a judgment for a sale of any of the lots or lands of the plaintiffs in error is now pending in said County Court of Cook County, or elsewhere, and that this respondent has no purpose or intention of taking any steps of any kind or character to collect said special assessment so levied against the lots and lands of the plaintiffs in error until its right to do so shall have been determined by the order and judgment of this court.

And this respondent, West Chicago Park Commissioners, a quasi-municipal corporation duly organized and existing under and pursuant to the laws of the State of Illinois, having fully answered all of the matters and things required by it to be answered and shown, in obedience to said rule to show cause, prays to have said rule as to it discharged.

WEST CHICAGO PARK COMMISSIONERS.
By JOSEPH W. SUDDARD, *President.*

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

Ernest G. Schubert, being first duly sworn, on oath says that he is and for three years last past has been the secretary of West Chicago Park Commissioners, a quasi-municipal corporation existing under the laws of the State of Illinois; that he is the keeper of the records and seal of said Park Commissioners; that he has read over the foregoing answer of West Chicago Park Commissioners and knows the contents thereof to be true in substance and in fact.

This affiant further says that he has carefully examined the records of the proceedings in respect to all of the matters and things done by said West Chicago Park Commissioners between the 13th day of October, A. D. 1899, and the 25th day of September, A. D. 1900, and from such examination, and from his personal knowledge swears that the subject-matter of making a return of the lots and lands of the plaintiffs in error in the above entitled cause to the County Treasurer and ex-officio Collector of Cook County, as delinquent for the non-payment of the several amounts assessed by said West Chicago Park Commissioners against the several lots and lands of the plaintiffs in error for paying the cost of the improvement of Douglas boulevard from the south line of Colorado avenue to the west line of Douglas Park was never before the Board of West Chicago Park Commissioners at any meeting thereof at any time heretofore, and was never presented to or discussed by the members of said board at any meeting thereof.

And affiant further swears that he knows that the statement in the petition filed in this court by the plaintiffs in

error to the effect that the West Chicago Park Commissioners as a municipal corporation had returned the real estate of Thomas F. Farrell and his co-plaintiffs in error as delinquent to the County Treasurer and ex-officio County Collector of Cook County, Illinois, for the non-payment of special assessment, is wholly false and untrue.

Affiant further says that as the secretary of said West Chicago Park Commissioners he never at any time gave any instruction to any officer or employe of the board of West Chicago Park Commissioners to make any such return, and that no member of the Board of West Chicago Park Commissioners, or any officer thereof, either directed, advised or requested this affiant as such secretary or otherwise, to make or cause to be made any return of the lots and lands of the plaintiffs in error herein to the County Treasurer of Cook County as being delinquent for the non-payment of the special assessment particularly described in the foregoing answer.

ERNEST G. SCHUBERT.

Subscribed and sworn to before me this 26th day of September, 1900.

PHILIP KNOPF,
County Clerk.

And now come also Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, and in answer to the rule heretofore entered in this honorable court in the above entitled cause, ordering the defendants in error therein to show cause

why the defendants in error should not be punished for contempt as prayed in said petition, say,

That on the first day of March, A. D. 1900, they were, respectively, members of the board of "Public Park Commissioners," a quasi-municipal corporation existing under the laws of the State of Illinois, and known under the name and description of "West Chicago Park Commissioners"; that they are officers of the State of Illinois, appointed by the governor of said state to act and serve as members of said Board of Park Commissioners, and to perform all of the duties connected with the business and affairs of said West Chicago Park Commissioners required of them under the laws of said state, and that the said Board of Public Park Commissioners consists of seven members, who are resident freeholders and qualified voters of the Town of West Chicago. (See Private Laws of 1869, Vol. 1, p. 342, Sec. 2.)

And these respondents, Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf further answering said rule for themselves, say that they are still members of said board of West Chicago Park Commissioners and are in the discharge of the official duties imposed upon them by law as said park commissioners, but that some time subsequent to April 25, 1900, Anton Peterson and Frank T. Fowler, who had theretofore been members of said board of park commissioners, ceased to be both legally and in fact officers and members of said park commissioners, and are not now either of them members of said board.

And these respondents, Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, further answering said rule to show cause say, each for himself, that they did not know that

any return had been made to the county treasurer and ex-officio collector of Cook County of the lots and lands of the plaintiffs in error in this cause, on the ground that such lots and lands of the plaintiffs in error were delinquent for the non-payment of the special assessment heretofore levied by West Chicago Park Commissioners as such municipal corporation, as set forth in the foregoing corporate answer of said park commissioners, until on or about the 12th day of April, A. D. 1900, when the notice and demand hereinabove set forth in the corporate answer of said West Chicago Park Commissioners, the defendant in error herein, signed by "George W. Wilbur, attorney for said plaintiffs in error," was served upon said West Chicago Park Commissioners as a quasi-municipal corporation, and upon each of these respondents, respectively; that at no time prior to April 12, A. D. 1900, had these respondents or any of them, acting in his official capacity as a member of said board of West Chicago Park Commissioners, or as an individual, either by his vote or otherwise, instructed or caused to be instructed any officer, employe or attorney of said West Chicago Park Commissioners to make any return to the county treasurer and ex-officio collector of Cook County of any of the lots and lands owned or claimed to be owned by the plaintiffs in error in this cause, upon the ground that the same were delinquent for the non-payment of the special assessment hereinbefore and in the corporate answer of said West Chicago Park Commissioners set forth.

But these respondents further answering, say, that they were soon after April 12, 1900, informed and on information state that John I. Straw, who was then and now is collector of all special assessments levied by said park commissioners, had made, on the first day of March, A. D.

1900, but without the knowledge, acquiescence or consent of these respondents a formal return of the lots and lands of the plaintiffs in error to the said county treasurer, upon the ground that such lots and lands were delinquent for the non-payment of said special assessment.

And these respondents further answering said rule to show cause say, that after the notice signed by George W. Wilbur, attorney for plaintiffs in error, was served upon them they were advised by counsel that under the law they were not required to take any action whatever, respecting the demand so made by the plaintiffs in error, as to the withdrawal of the application of the county treasurer and ex-officio collector of Cook County made to the County Court of Cook County for a judgment ordering the sale of the lots and lands of plaintiffs in error, because of the non-payment of the special assessment heretofore referred to, for the reason, as these respondents were advised by counsel, that the supersedeas order in the writ of error issued in the above entitled cause did not affect the power and authority of said county treasurer to take such steps as under the law were necessary to collect said assessment against the lots and lands of the plaintiffs in error, nor the power and authority of the collector of special assessments of the West Chicago Park Commissioners to make the return which, as such collector of special assessments he had made, although without the direction or knowledge of these respondents, of the lots and lands of the plaintiffs in error to said county treasurer.

These respondents further answering said rule to show cause say, that John I. Straw is an officer of said West Chicago Park Commissioners, authorized by law, and whose duty it is to collect all special assessments lawfully levied by said park commissioners, but that in making the

return of the lots and lands of the plaintiffs in error returned by him as such officer as delinquent for the non-payment of said special assessment to the county treasurer and ex-officio collector of Cook County, he acted without the advice, authority, direction, knowledge or concurrence of these respondents, or any or either of them, whether acting officially or as individuals.

And these respondents, Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, further answering, say, that subsequent to the service of the rule upon them, respectively, to show cause, etc., an order was entered in the County Court of Cook County on July 26, A. D. 1900, in and by which said order the application of the said county treasurer for a judgment for a sale of the lots and lands of the plaintiffs in error in this cause was withdrawn; that the order so entered in said County Court of Cook County is hereinabove set out in the corporate answer of the West Chicago Park Commissioners, and was so entered by the authority and direction of these respondents, Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, and that Samuel B. Raymond, county treasurer and ex-officio collector of Cook County, joined with these respondents, who are a majority of said West Chicago Park Commissioners, in the withdrawal of the application of a judgment of sale against each and every of the lots and lands of the plaintiffs in error, and in the entry of said order in said County Court of Cook County.

And these respondents, Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf further answering said rule to show cause, say, that there is not now pending any application,

either in the County Court of Cook County or elsewhere for a judgment directing the sale of all or any of the lots of the plaintiffs in error on account of the non-payment of said special assessment, and that these respondents have never at any time, either by any act or thing said or done by them or either of them, acting officially as a member of said board of park commissioners or individually, violated or failed to respect the supersedeas order contained in the writ of error sued out in the above entitled cause, and that each of them omitted to take all such steps as members of said board of public park commissioners, and to do all things within their power as such officers to withdraw the application for a judgment of sale against the lots and lands of the plaintiff in error from the said County Court of Cook County after the fact came to their knowledge that a return of such lots and lands had been made to the county treasurer of Cook County, because they were advised by counsel that neither the return of said lots and lands so made by the said John I. Straw as such collector of special assessments nor the application of the said Samuel B. Raymond as county treasurer and ex-officio collector of Cook County to the County Court of Cook County for a judgment of sale of such lots and lands, was under the law a violation of any duty imposed upon them by the supersedeas order contained in the writ of error issued in this cause.

And these respondents, Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf further answering said rule to show cause say, that neither or any of them are in law defendants in error in the above entitled cause, but that the "West Chicago Park Commissioners" as such municipal corporation, is the only defendant in error therein: that

the only relation of these respondents to the above entitled cause is that of members of said board of public park commissioners, appointed by the governor of Illinois as aforesaid, and make this answer to the said rule to show cause, for the reason that as such officers and members of said board they were on March 1, A. D. 1900, when said return was made, and have since been responsible for the proceedings, actions and business affairs of said West Chicago Park Commissioners.

And having fully answered all of the matters and things required of them and each of them, and having done or caused to be done all things necessary to place said West Chicago Park Commissioners in the proper relation of obedience to the supersedeas order of said writ of error, respectfully ask to be discharged from further or other duty in the premises, and that said rule both as to said West Chicago Park Commissioners and these respondents be also discharged.

JOSEPH W. SUDDARD,
FREDERICK M. BLOUNT,
ANDREW J. GRAHAM,
CHARLES B. PAVLICEK,
CHARLES W. KOPF.

IN THE SUPREME COURT OF THE UNITED STATES,
OCTOBER TERM, A. D. 1900.

Thomas F. Farrell *et al.*,
Plaintiffs in Error,

No. 525. *vs.*

West Chicago Park Commissioners,
Defendants in Error.

ERROR TO THE SUPREME COURT OF ILLINOIS.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, being first duly sworn on their respective oaths say: that they are residents of the town of West Chicago, in the city of Chicago and State of Illinois, and that since a date prior to October 13, 1899, they and each of them have been and now are, this 25th day of September, A. D. 1900, duly qualified officers of the State of Illinois and members of the board of public park commissioners, a *quasi*-municipal corporation known and designated in the laws of Illinois under the name and style of West Chicago Park Commissioners.

These affiants, each for himself, further swears, that he has read over the foregoing answer to the rule heretofore issued in the above entitled cause, requiring the defendants in error to show cause why they should not be punished for contempt, signed by these affiants, respectively, and each for himself says, that he knows the contents thereof, and that the same is true in substance and in fact.

And these affiants further swear, each for himself, that he has not done or knowingly suffered to be done, either while acting officially as a member of said board of public park commissioners, or as an individual, any act or thing which in any way or manner was a violation of any order or mandate to this court in respect to anything done by them or either of them, in making a return to the county treasurer and ex-officio collector of Cook County, Illinois, of the lots and lands or any of them, of the plaintiffs in error, on the ground that such lots and lands were delinquent for the non-payment of the special assessment levied by said park commissioners to pay the cost of improving Douglas boulevard from the south-easterly line of Garfield Park to the west line of Douglas Park, in the city of Chicago, County of Cook and State of Illinois.

JOSEPH W. SUDDARD,
FREDERICK M. BLOUNT,
ANDREW J. GRAHAM,
CHARLES B. PAVLICEK,
CHARLES W. KOPF.

Subscribed and sworn to before me by the said Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, this 26th day of September, A. D. 1900.

PHILIP KNOPF,
County Clerk and Clerk of the County Court of Cook County, Illinois.

IN THE SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, A. D. 1900.

Thomas F. Farrell *et al.*,
Plaintiffs in Error,

No. 525. *vs.*

West Chicago Park Commissioners,
Defendants in Error.

ERROR TO THE SUPREME COURT OF ILLINOIS.

The joint and several answers of Anton Petersen and Frank T. Fowler, to the rule heretofore entered in said cause, to show cause why West Chicago Park Commissioners should not be punished as for contempt.

These respondents, Anton Petersen and Frank T. Fowler, answering for themselves, and each for himself, say: that they have knowledge of the existence of a *quasi*-municipal corporation known under the laws of the State of Illinois as West Chicago Park Commissioners; that said West Chicago Park Commissioners is governed and its affairs are managed by a board of public park commissioners appointed by the governor of Illinois; that on the first day of March, 1900, these respondents were both members of such board of park commissioners, and were in the discharge of their duties as such park commissioners; but that afterwards, and on the————day of ————————, they ceased to be members of such board of park commissioners, and since the day last mentioned have had no connection with, authority or control of the business and affairs of said West Chicago Park Commissioners.

And these respondents further answering each for himself says; that neither of them ever knew that a return

had been made of the property of the plaintiffs in error in this cause to Samuel B. Raymond, county treasurer and ex-officio collector of Cook Conuty, on the ground that such lots and lands were delinquent for the non-payment of a special assessment which had theretofore been levied by said West Chicago Park Commissioners to pay the cost of improving Douglas boulevard from the south-easterly line of Garfield Park to the west line of Douglass Park, in the city of Chicago, Illinois; that the first knowledge these respondents, or either of them had, that such return had been made, was on or about the 12th day of April, A. D. 1900, when service of a notice and demand was made upon these respondents as individuals to withdraw the application of said Samuel B. Raymond as such collector, made to the County Court of Cook County, Illinois, for a judgment for a sale of the lots and lands of the plaintiffs in error, upon the ground that such lots and lands were delinquent for non-payment of said special assessment.

These respondents, further answering said rule to show cause, say that neither they nor either of them ever advised John I. Straw, who was on March 1, 1900, collector of special assessments for the West Chicago Park Commissioners, to make any return of the lots and lands of the plaintiffs in error to the county treasurer of Cook county for any purpose whatever, and had no knowledge that such return had been made until on or about April 12, 1900.

And these respondents, further answering, say that they never have disregarded or disobeyed the supersedeas order granted at the time of the issuing of the writ of error in the above entitled cause, and that neither they or either of them know what steps have been taken by said West Chicago Park Commissioners, since the date when they

ceased to be members of said board; and these respondents are informed and believe and on such information state, that the application of said county treasurer made to the County Court of Cook County, for a judgment of sale against the lots and lands of the plaintiffs in error has been withdrawn.

And these respondents having fully answered all of the matters and things which they are advised, it is necessary for them to answer respecting said rule to show cause, pray to be discharged from further duty or obligation in the premises.

ANTON PETERSEN,
FRANK T. FOWLER.

Subscribed and sworn to by the said Anton Peterson and Frank T. Fowler this 28th day of September, 1900.

E. G. SCHUBERT,
Notary Public.

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, A. D. 1900.

Thomas F. Farrell *et al.*,
Plaintiffs in Error,

No. 525. *vs.*

West Chicago Park Commissioners,
Defendant in Error.

ERROR TO THE SUPREME COURT OF ILLINOIS.

STATE OF ILLINOIS, } ss.
COUNTY OF COOK. }

Francis A. Riddle, being duly sworn on his oath says; that he is a citizen of the State of Illinois, of lawful age, and a resident of the city of Chicago, Cook County, Illinois; that he is by profession a lawyer, admitted to practice law at the bar of the Supreme Court of Illinois and at the bar of this court; that for more than three years last past he has been the attorney of the defendant in error, West Chicago Park Commissioners, and authorized to represent said park commissioners in all legal actions and proceedings; that he is familiar with and knows the contents of the corporate answer filed by said West Chicago Park Commissioners as a municipal corporation, in this cause to be true in substance and in fact, and he is also familiar with the facts set forth in the joint and several answers filed herein of Joseph W. Suddard, Frederick M. Blount, Andrew J. Graham, Charles B. Pavlicek and Charles W. Kopf, all of whom for more than one year last past have been to the knowledge of this affiant duly qualified members of the Board of Public Park Commissioners, lawfully known and designated as "West Chicago Park Commissioners," in the Statutes of Illinois.

Affiant further says that during the latter part of the month of February, A. D. 1900, John I. Straw, who was then and is now the collector of special assessments for said West Chicago Park Commissioners, an officer authorized to be appointed by the said West Chicago Park Commissioners under the laws of Illinois, and whose duty it is to collect all special assessments lawfully levied by said West Chicago Park Commissioners, and to make a return to the county treasurer and ex-officio collector of Cook County from time to time of all lots and lands against which any special assessment had been levied by said West Chicago Park Commissioners, pursuant to law, applied to this affiant for advice as to his duty respecting the return of the lots and lands of the plaintiffs in error in the above entitled cause, for the reason that the owners of such lots and lands had not paid the amount of the special assessment which had theretofore been levied by said park commissioners against such lots and lands to pay the cost of improving Douglas boulevard from the south-easterly line of Garfield Park to the west line of Douglas Park, in said city of Chicago and in the town of West Chicago.

This affiant further says that he made due investigation of the right of said straw to make such return, and upon what then seemed to this affiant to be unquestioned authority as to the law in such case, advised said Straw as such collector, to make and return to the said county treasurer on the first of March, 1900, all of the lots and lands, including those of the plaintiffs in error, which had not paid the amount of the special assessment levied against such lots and lands respectively as aforesaid.

And this affiant further says that before advising said Straw as such collector, he ascertained from a careful

examination of the records of the Supreme Court of Illinois, that a copy of the writ of error sued out in this cause had not been lodged for the adverse party in the clerk's office of said Supreme Court of Illinois, until on or about January 24, 1900; said clerk's office of the Supreme Court of Illinois being the office where the record of the judgment remains, and to review which judgment the writ of error in this cause was sued out upon the petition of the plaintiffs in error.

This affiant further says that he ascertained also by examination of the files and records of the Supreme Court of Illinois relating to the cause and judgment from which said writ of error was sued out by the plaintiffs in error in this cause, that the bond required to be given had not been filed with the clerk of said Supreme Court until on or about January 24, 1900, and that after said bond had been filed and approved, and on or about January 29, 1900, it had been altered and amended by the insertion in the body of said bond of the name of one Micheal Hannigan, without the consent of the surety on said bond; and this affiant was then and is now of the opinion that said act of altering said bond rendered the same nugatory.

Affiant further says that he ascertained that the judgment of the Supreme Court of Illinois, to review which the writ of error in this cause was sued out, was entered in said Supreme Court of Illinois on October 13, 1899, and that the judgment so entered in said Supreme Court of Illinois, had not been either set aside or modified, but the same stood and now stands in said Supreme Court as a final judgment entered in the cause now reported as "*Farrell* v. *West Chicago Park Commissioners*, 182 Ills., 250."

And this affiant further says that in view of the facts and the record in the Supreme Court of Illinois, he was conscientiously and firmly of the opinion that the failure of the plaintiffs in error to sue out their writ in this court, within sixty days, Sundays exclusive, from the date of the rendition of the judgment in said *Farrell* v. *West Chicago Park Commissioners*, and to lodge a copy thereof in the office of the clerk of the Supreme Court of Illinois, within sixty days, Sundays exclusive, from and after the 13th day of October, 1899, and to file a proper and sufficient bond, did not entitle the plaintiffs in error in this cause to a supersedeas, and that the supersedeas order contained in said writ of error was not such a mandate of this court as required said West Chicago Park Commissioners, or any of its officers, to respect or obey it.

And this affiant further says; that in so advising said Straw as such collector, he relied upon the authority found in *Kitchen* v. *Edmund Randolph*, 93 U. S., 86, and upon the adjudicated case of *Russell Sage, et al.* v. *The Central Railroad Co. of Iowa, et al.*, 93 U. S., 412, as expressive of the law governing the rights of the West Chicago Park Commissioners, the defendant in error herein.

Affiant further says that as to the question of the date of the finality of the judgment in the Supreme Court of Illinois, to correct which the writ of error in this cause is sued out, he relied upon the adjudicated cases of *Sholty* v. *McIntyre, Armr.*, reported in 136 Ill., 133; the adjudicated case of *Lester* v. *People of the State of Illinois*, reported in 150 Ill., 150, and in the adjudicated case of *Klien* v. *Charles L. Boyd, Receiver*, reported in 169 Ill., 325, as fully expressing the law upon the question of what is a final judgment and the effect thereof.

Affiant further says that he did not know until about April 12, 1900, that the plaintiffs in error or their counsel claimed that the supersedeas order upon the suing out of said writ of error was an order or command of this tribunal, prohibiting the West Chicago Park Commissioners, defendant in error, or its proper officer in that behalf, from making a return of the lots and lands of plaintiffs in error upon the ground that they were delinquent for the non-payment of said special assessment.

This affiant further says that he did not until on or about April 12, 1900, advise said West Chicago Park Commissioners, or any of the members of the Public Board of Park Commissioners, known in the laws of Illinois as West Chicago Park Commissioners, that any return had been made, or that he had advised said John I. Straw as such collector of special assessments, to make a return to said county treasurer of the lots and lands of the plaintiffs in error herein, as delinquent for the non-payment of said special assessment. But this affiant in respect to so advising said Straw as such collector acted upon the general authority given to him by said West Chicago Park Commissioners to represent it in all legal proceedings, and to do and perform such professional acts and to give such advice as might be necessary in respect to the affairs of said park commissioners relating to all special assessments which had been lawfully levied by said park commissioners, including the special assessment for paying the cost of the improvement of said Douglas boulevard.

Affiant further says that, after the service of the rule issued by this court requiring the defendants in error to show cause, he advised said West Chicago Park Commissioners and the members of said Board of Public Park

Commissioners to withdraw or to join with the county treasurer of Cook county in withdrawing the application which had been made and was then pending in the County Court of Cook County for judgment against the several lots and lands of the plaintiffs in error, for sale, because such lots and lands were delinquent for the non-payment of said special assessment; and, accordingly, on July 26, A. D. 1900, a formal order was presented to and entered of record by said County Court, upon the joint motion of said county treasurer and said West Chicago Park Commissioners, in and by which said order all of the lots and lands of the plaintiffs in error herein were withdrawn from said application for judgment; that no application is now pending for a judgment against any of the lots and lands of the plaintiffs in error for a sale of such lots and lands, because the amount so specially assessed against such lots, respectively, had not been paid. Said order is fully set out in the corporate answer of said West Chicago Park Commissioners.

And affiant further says that no injury or damage has resulted to the plaintiffs in error by reason of the return so made by the said John I. Straw as such collector of special assessments.

Affiant further says that he has read what purports to be an "abstract of statement and exhibits showing disregard of supersedeas and of rule to show cause," filed or proposed to be filed in the above entitled cause upon behalf of the plaintiffs in error, by George W. Wilbur and Newton A. Partridge, and that he has particularly read and considered what purports to be an order of the County Court of Cook County, set out on pages 22 and 23 of said abstract of statement and exhibits, as "Exhibit E," and

purporting to be an order entered in the County Court of Cook County on July 27, 1900, overruling certain objections filed by George W. Wilbur to the application of the County Treasurer for judgment of sale for lands delinquent for non-payment of special assessments.

And affiant says that said order so entered in said County Court on July 27, 1900, does not in any way relate to the lots and lands of the plaintiffs in error in the above entitled cause, and which are described in the order of the County Court of Cook County, set out at length in the corporate answer of West Chicago Park Commissioners, but relates to other lots for which Mr. Wilbur had filed objections, but which lots were not included in the writ of error in this cause; that the lots and lands of the plaintiffs in error were not before the County Court on the application of the County Treasurer of Cook County for a judgment of sale on July 27, 1900.

Affiant further says that, in respect to the matters and things complained of against the defendants in error herein in the petition filed by the plaintiffs in error for a rule to show cause, he has acted in good faith and without any wish, purpose or design of disobeying any lawful mandate or order of this court; and affiant further says, from his knowledge of the acts of the members of the said Board of West Chicago Park Commissioners, he does not believe that any of the members of said Board of Park Commissioners have knowingly or wilfully done anything or committed any act which was in fact or in spirit a contempt of this court, or a wilful violation of any of its orders or mandates, but that the members of said Board of Park Commissioners have in all things

been moved by what they have understood to be their duties as public officers.

FRANCIS A. RIDDLE.

Subscribed and sworn to before me by the said Francis A. Riddle this 3d day of October, 1900.

D. H. JOHNSTON,
Notary Public.